

Order

Michigan Supreme Court
Lansing, Michigan

May 30, 2006

Clifford W. Taylor,
Chief Justice

128493

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 128493
COA: 251019
Oakland CC: 03-188836-FC

YUTAKA KURODA,
Defendant-Appellant.

By order of October 27, 2005, the application for leave to appeal the February 22, 2005 judgment of the Court of Appeals was held in abeyance pending the decision in *People v Johnson* (Docket No. 127525). On order of the Court, the opinion having been issued on March 23, 2006, 474 Mich ____ (2006), the application is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals and REMAND this case to the Oakland Circuit Court for resentencing. The circuit court erred by assessing defendant 50 points under Offense Variable 11 on each conviction for penetrations that did not arise out of the particular sentencing offense. On resentencing, the circuit court shall assess defendant zero points for each conviction under Offense Variable 11.

We do not retain jurisdiction.

WEAVER, J., would grant leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 30, 2006

Corbin R. Davis

Clerk